

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

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|-------------------------------|---|------------------|
| ZANE A. JOHNSON, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | 1:07CV278 |
| |) | |
| WARDEN MARVIN L. POLK, |) | |
| |) | |
| Respondent. |) | |

O-R-D-E-R

The Recommendation of the United States Magistrate Judge was filed with the court in accordance with 28 U.S.C. § 636(b) and, on October 24, 2007, was served on the parties in this action.. Petitioner filed a "Motion to Add More Evidence," which will be construed as objections to the Recommendation.

The court has appropriately reviewed the portions of the Magistrate Judge's report to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge's report. The court therefore adopts the Magistrate Judge's recommendation.

IT IS THEREFORE ORDERED that Respondent's motion to dismiss [Pleading No. 8] be **GRANTED** and that this action be dismissed as time-barred. Finding no substantial

issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.

This the day of January 22, 2008

/s/ N. Carlton Tilley, Jr.
United States District Judge